

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHERYL COMPTON, et al.,)	
)	
Plaintiffs,)	
)	Cause No. 4:11CV01975 CEJ
v.)	
)	
ST. LOUIS METROPOLITAN POLICE)	
DEPARTMENT, et al.,)	
)	
Defendants.)	

DEFENDANTS' RESPONSE TO
SECOND MOTION OF PLAINTIFFS VELTRE AND MCFARLAND AND NON-
PARTY O'BRYAN TO ENLARGE TIME FOR LEAVE
TO ADD ADDITIONAL PARTIES DEFENDANT AND CAUSES OF ACTION

Come now all Defendants, and make this Response to the "Second Request to Enlarge Time for Leave to Add Additional Parties Defendant and Causes of Action" on behalf of certain existing plaintiffs, Bradley Veltre and Jonathan McFarland, and one putative plaintiff, Annabelle O'Bryan (Doc. #35), and in support thereof state as follows:

1. Rule 15(a)(2), F.R.C.P., states that unless a pleading is to be amended within the 21-day period after service, "a party may amend its pleading only with the opposing party's written consent or the court's leave."

2. This Motion for Leave is outside the 21-day period after service.

3. To the extent this Motion for Leave may be construed as seeking the opposing party's consent, Defendants cannot consent, for the following reasons:

a. The Motion is untimely; the parties fashioned a proposed Joint Discovery Schedule, which became the basis for the Case Management Order, on the premise that the entirety of all parties already were identified. The Case Management Order was

issued on January 13, 2012. This request is now being filed more than two weeks after the deadline in the Case Management Order for amending pleadings. There was ample time prior to the February 6, 2012 deadline to submit a pleading purporting to amend claims or add parties.

b. It is generally an accepted procedure that a Motion for Leave to Amend would attach the proposed amended pleading to be filed; the pleading submitted to the Court contains no such attachment. Without knowing what proposed claims are purported to be added, Defendants will not consent to the amendment, particularly where it is untimely. A fair reading of the Complaint shows that, other than nominal damages, it seeks only equitable relief, in the form of a declaratory judgment or injunction. Any attempt to seek a remedy in some other form, such as compensatory damages or otherwise (although it is impossible to ascertain this without seeing a proposed amended pleading), puts this action in an entirely different posture for Defendants.

4. Based on the foregoing, Defendants submit the Second Motion for Leave to Add Additional Parties Defendant and Causes of Action should be denied.

WHEREFORE, Defendants pray “Second Request to Enlarge Time for Leave to Add Additional Parties Defendant and Causes of Action” on behalf of plaintiffs Bradley Veltre and Jonathan McFarland, and non-party Annabelle O’Bryan be denied.

BOARD OF POLICE COMMISSIONERS
OF THE CITY OF ST. LOUIS

/s/ Mark Lawson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed electronically with the Clerk of the Court on February 21, 2012, to be served by operation of the Court's electronic filing system upon all attorneys of record.

/s/ Mark Lawson
